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Nos. 83-6381 and 83-1660

In the Supreme Court of the United States

OCTOBER TERM, 1983

GILL PARKER, ET AL., PETITIONERS

v.

JOHN R. BLOCK, SECRETARY OF AGRICULTURE, ET AL.

CHARLES M. ATKINS, COMMISSIONER OF THE MASSACHUSETTS DEPARTMENT OF PUBLIC WELFARE, PETITIONER

v.

GILL PARKER, ET AL.

ON CROSS-PETITIONS FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

BRIEF FOR THE FEDERAL RESPONDENT IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether notices sent by Massachusetts' Department of Public Welfare to food stamp recipients advising them of a statutory change affecting Food Stamp benefit levels were inadequate under the Food Stamp Act or the federal regulations promulgated pursuant thereto.

2. Whether the due process clause requires that individualized advance notice be given to each affected food stamp recipient prior to the implementation of statutory benefit level adjustments when the statutory change can be implemented without any new or additional factual findings as to individual recipients.

3. Assuming that the due process clause requires some type of individualized advance notice, whether the notices issued in the instant case, which generally informed recipients of the change in federal law without specifying how the benefits of the individual recipient would be affected, denied due process.

4. If the notices in this case were legally insufficient for any reason, but at least 95% of the benefit adjustments were nevertheless accurate, whether the court of appeals abused its discretion in setting aside the district court's order (1) requiring that all Massachusetts food stamp recipients affected by the statutory change be refunded the amount of the benefit reduction and (2) requiring the state to submit for court approval regulations governing notice of any future reduction in food stamp benefits.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. A1-A38)[1] is reported at 722 F.2d 933. The opinion of

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[1] "Pet App." denotes the Appendix to 83-1660.

the district court (Pet. App. A42-A98) is unreported.

JURISDICTION

The judgment of the court of apeals was entered on December 7, 1983. The petition in No. 83-6381 was filed on March 6, 1984. The conditional cross-petition, No. 83-1660, was filed on April 9, 1984. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

1. The Food Stamp Program is a joint federal/state effort to "permit low-income households to obtain a more nutritious diet through normal channels of trade" (7 U.S.C. 2011). Households certified as eligible are issued coupons ("food stamps") which they may use to purchase food at approved stores. 7 U.S.C. 2012 and 2013. The federal government bears the entire cost of food stamps redeemed through the Treasury. 7 U.S.C. 2013(a). While the Secretary of Agriculture prescribes uniform standards for food stamp eligibility (see 7 U.S.C. 2014), eligibility determinations are made by agencies of the states pursuant to approved plans implementing the federal standards. State agencies also perform the actual distribution of coupons. 7 U.S.C. 2020(a). The Secretary of Agriculture is authorized to reimburse the state agencies for up to 50% of the administrative costs associated with processing applications, storing and distributing coupons, and making administrative determinations. 7 U.S.C. 2025(a).

A household certified as eligible for food stamp benefits ordinarily will receive the same level of benefits for each month of its "certification period"—the period of time for which the approval of the

household's Food Stamp application is effective.[2] Certain events, however, may trigger a reduction in the level of benefits prior to the end of a household's certification period. The notice requirements for implementing such a benefit reduction depend upon the nature of the event that triggers the reduction. Most commonly, a change in the *facts* underlying the individual household's certification—for example, an increase in household income, the departure of a dependent from the household or a conviction for program fraud—will lead the state to commence a household-specific "adverse action" proceeding. In such cases federal regulations require that, 10 days prior to the effective date of the adverse action, the household receive a notice stating (7 C.F.R. 273.13 (a)(2)):

> The proposed action; the reason for the proposed action; the household's right to request a fair hearing; the telephone number and, if possible, the name of the person to contact for additional information; the availability of continued benefits; and the liability of the household for any overissuances received while awaiting a fair hearing if the hearing official's decision is adverse to the household. If there is an individual or organization available that provides free legal representation, the notice shall also advise the household of the availability of the service.

The other kind of event that may reduce a household's allotment of Food Stamps during its certification period is a change in the *law* to be applied to

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[2] Certification periods vary from one month to one year, depending upon an administrative evaluation of the financial stability of the household. See 7 U.S.C. 2012(c); 7 C.F.R. 273.10(f)(3)-(6).

the data concerning recipient households already on file. Such "mass changes" affect all certified households or defined classes thereof.[3] Federal regulations governing mass changes provide that states implementing a mass change must send notices to each affected household advising of the change in general terms. 7 C.F.R. 273.12(e)(2)(ii). The regulations further require that any food stamp recipient that believes that the Food Stamp allotment it has received was erroneously calculated be afforded a hearing upon request. If a hearing is requested the former level of benefits is to be restored until the recipient's complaint is acted upon unless the complaint is based upon opposition to the underlying legal change. *Ibid.* The advance notice and content requirements applicable to "adverse actions" do not apply to mass changes. 7 C.F.R. 273.13(b)(1).

Eligibility for, and the level of, Food Stamp benefits is largely based upon household income. To maintain an incentive to earn and report income, the Secretary of Agriculture adopted a policy of deducting or "disregarding" 20% of a household's earned income in making eligibility and benefit level determinations. Congress codified this policy in the Food Stamp Act of 1977. See 7 U.S.C. (Supp. II) 2014(e). As part of the Omnibus Budget Reconciliation Act of 1981 (OBRA), Pub. L. No. 97-35, 95 Stat. 357, however, Congress made a number of changes in the operation of the food stamp program. By Section 106

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[3] Mass changes include statutory adjustments to the eligibility criteria, deductions, adjustments in the benefits provided by other state and federal welfare programs, Social Security benefit changes, and "other changes in the eligibility criteria based on legislative or regulatory actions." 7 C.F.R. 273.12(e).

of OBRA (95 Stat. 360) the Food Stamp Act was amended to reduce the earned income "disregard" from 20% to 18%. See 7 U.S.C. 2014(e). As a result of this change, some previously eligible families experienced a small reduction in their monthly food stamp allotment while some became ineligible for food stamps. Still other households were entirely unaffected by the change.[4] To implement the provisions of OBRA affecting the Food Stamp Program, the Department of Agriculture issued regulations, 46 Fed. Reg. 44712 *et seq.* (1981), which directed the states to implement Section 106, while affording notice to recipients in the manner prescribed for mass changes. 7 C.F.R. 272.1(g)(ii) at 46 Fed. Reg. 44722 (1981).

2. Toward the end of November, 1981, the Massachusetts Department of Public Welfare issued the required notices to the food stamp households believed to be affected by the statutory reduction in the earned income deduction (Pet. App. A3). These notices gave recipients the right to appeal (and thus to prevent the reduction from going into effect while the appeal was pending) within 10 days. The notices, however, were ambiguously dated "11/18" (*id.* at

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[4] The reduction in the earned income disregard did not necessarily reduce the benefits of a household, especially if the household had relatively small amounts of earned income or a low Food Stamp allotment. As the amount of earned income increased, the reduction in the amount disregarded would generally increase as well, gradually reducing the Food Stamp allotment. We are advised that the reductions involved would not exceed $4 per month. In some instances a household with relatively high income that had qualified only for the minimum allotment of Food Stamps ($10 per month) prior to the enactment of OBRA was rendered ineligible as a result of the decrease in the earned income disregard.

A4). On December 10, 1981, four food stamp recipients brought this action in the United States District Court for the District of Massachusetts challenging the validity of these notices on behalf of a purported class of approximately 16,500 households that had received the notices.

After a temporary restraining order barring implementation of the earned income disregard adjustment was issued, the State took steps to moot any question arising from the ambiguity of the appeal deadline by issuing a second notice, dated December 26, 1981 and mailed on or about December 24. The first page of the December notice stated that the earlier notice had been withdrawn. The second page of the notice began "* * * *IMPORTANT NOTICE—READ CAREFULLY* * * *" and stated:

> RECENT CHANGES IN THE FOOD STAMP PROGRAM HAVE BEEN MADE IN ACCORDANCE WITH 1981 FEDERAL LAW. THE EARNED INCOME DEDUCTION FOR FOOD STAMP BENEFITS HAS BEEN LOWERED FROM 20 TO 18 PERCENT. THIS REDUCTION MEANS THAT A HIGHER PORTION OF YOUR HOUSEHOLD'S EARNED INCOME WILL BE COUNTED IN DETERMINING YOUR ELIGIBILITY AND BENEFIT AMOUNT FOR FOOD STAMPS. AS A RESULT OF THIS FEDERAL CHANGE, YOUR BENEFITS WILL EITHER BE REDUCED IF YOU REMAIN ELIGIBLE OR YOUR BENEFITS WILL BE TERMINATED. (FOOD STAMP MANUAL: 106 CMR:364.400).

The notice then explained that the household had a "*RIGHT TO A FAIR HEARING*" and explained

how an appeal could be taken.[5] After receiving this notice, plaintiffs amended their complaint to attack its sufficiency. A renewed application for a temporary restraining order was denied, and the reductions required by OBRA Section 106 were effectuated for Massachusetts food stamp recipients beginning in January 1982.

After a two-day trial, the district court ruled in petitioners' favor and entered findings of fact and conclusions of law (Pet. App. A42-A98). The district court found that the language employed in the notices rendered them incomprehensible to "many" members of plaintiffs' class (Pet. App. A56-A67).[6] The district court further found that the notices could have been written at a simpler level, and could have been framed to state the former benefit level for the particular household, the new benefit level, "a precise statement of the reason for the nature of the

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[5] A photocopy of the notice as set forth in the court of appeals' slip opinion is attached to the petition (83-6381 Pet. App. A4).

We note that Massachusetts went beyond the mandate of federal regulations by allowing for restoration of the reduced benefits if an appeal was taken within the 10-day deadline even if the appeal merely voiced disagreement with the statutory change. Compare page 4, *supra*.

[6] The district court's finding is based upon the testimony of reading experts presented by petitioners. According to the district court the words and phrases which rendered the December notices difficult for some recipients to comprehend included: "within," "division," "recent," "federal benefits," "eligibility," "eligible," "appeal," "reduced," "reduction," "deduction," "request," "action," "local," "welfare," "percent," "disagree," "terminated," "computation," "contract," "enclosed." "current benefits," "certification," "federal percent," "welfare," "You have a right to a fair hearing," "reinstated," "the earned income deduction has been lowered from 20 percent to 18 percent," "terminated," and "appeal is denied."

change, and sufficient information to allow its recipient to determine whether the proposed action is correct" (*id.* at A76). The district court found that errors in the computation of Food Stamp allotment in Massachusetts occurred in between 2% and 4.2% of all recipient households (Pet. App. A77-A84).[7]

Invoking the procedural due process analysis outlined in *Mathews* v. *Eldridge*, 424 U.S. 319, 335 (1976), the district court held the notices issued by the state to be insufficient. The court reasoned that plaintiffs presented "extremely significant" private interests in securing Food Stamp benefits; that there was a substantial risk of erroneous deprivation of benefits which use of more complete notices could have reduced; and that these improvements could be implemented without "any real hardship" (Pet. App. A86-A95). The district court also held that because of its format and difficult language the notice did not reasonably convey the information it contained (*id.* at A96-A98). In addition, the district court held,

[7] Massachusetts reported a 13% error rate, 11% of which represented *overpayments* (Pet. App. A77). Petitioners introduced the testimony of a law student, employed by their attorneys as a clerk, who reviewed a computer printout of the 16,000 persons receiving the December notice, took a random sample of 5,013, and found that 211 households with no earned income had a change in benefits (*id.* at A80-A81). Although there was no direct testimony to this effect, the district court inferred that each of these households received erroneously computed benefits (Pet. App. A82-A83). However, this error rate of 4.2% (211/5013), might be explained by the introduction by the State, contemporaneous with the change in earned income disregard, of a new monthly income reporting system that was badly backlogged (*id.* at A78-A80). In any event, the 4.2% error rate may be exaggerated because the law student included *increases* as well as decreases in his account of errors (II JA 71-79).

without elaboration, that the State's notices violated the advance notice requirements and the content requirements applicable to "adverse actions" established by the Food Stamp Act and federal regulations (*id.* at A98).

The district court directed the defendants to restore to every member of the class that had received the State's notice the amount by which its food stamp benefits had been reduced in order to implement the change in the earned income disregard required by OBRA (Pet. App. A101). In addition, the Massachusetts Commissioner of Public Welfare was permanently enjoined from reducing or terminating the benefits of any food stamp recipent without providing 10 days' advance notice containing at least the following information (*id.* at A103-A104):

> a. An explanation of the reason for the proposed action;
>
> b. The specific citation that supports the proposed action;
>
> c. The benefit amount prior to the proposed change;
>
> d. The benefit amount after the proposed change;
>
> e. Sufficient information to allow the recipient to determine whether an error has been made; and
>
> f. The effective date of the proposed action.

The State defendant was also directed to submit for the court's review and approval new regulations "containing specific standards to ensure that all future food stamp notices of reduction or termination are written and printed so as to be understandable to recipients of those notices" (*id.* at A102).

3. The court of appeals affirmed in part and reversed in part (Pet. App. A1-A38). Initially, the

court of appeals sustained the district court's ruling that the State's notice of the implementation of the reduction in the earned income disregard was constitutionally deficient (*id.* at A11-A28). The court rejected the government's argument that because the change in the earned income disregard was statutorily mandated, food stamp recipients could not claim any procedural due process rights respecting notice of its implementation (*id.* at A11-A14). The court reasoned that unless a statutory entitlement program is entirely abolished, "people have the right to participate in accordance with" the "preestablished ground rules" and that the implementation of any statutory change in the program affecting the terms of participation is subject to procedural due process review under *Mathews* v. *Eldridge*, 424 U.S. 319, 335 (1976) (Pet. App. A13-A14, A17). Treating the question whether the *Mathews* analysis had been correctly applied by the district court as one subject to the clearly erroneous standard (*id.* at A19-A20, A25-A26), the court of appeals declined to set aside the lower courts' constitutional ruling (*id.* at A21-A25).

In addition, the court of appeals upheld the district court's ruling that the State's notices violated the Food Stamp Act, 7 U.S.C. 2020(e)(10), and the Department of Agriculture's mass change regulations, 7 C.F.R. 273.12(e)(2)(ii), on the grounds that sufficient advance notice of the earned income disregard reduction was not provided, and that the mass change notice was inadequately informative (Pet. App. A28-A32). On the other hand, the court of appeals held that the mass change notices were not required to comply with federal regulations governing the contents of notices of adverse actions (*id.* at A28-A29).

The court of appeals set aside the remedies ordered by the district court (Pet. App. A32-A38).

The court of appeals observed that the complete restoration of food stamp benefits at their former level to all recipients

> was unwarranted, given the absence of any showing that a substantial percentage of these recipients had their benefits improperly reduced or terminated. *Restoration of benefits would constitute a windfall to recipients and would result in the continuation of benefits at a level exceeding that authorized by Congress.*

Pet. App. A33 (emphasis added). In addition, because food stamp benefits are funded by the federal government, a remedy of "wholesale benefit restoration" would have the perverse effect of undermining the states' incentive to provide sufficient notice, the court of appeals observed (*id.* at A34).

Although rectification of the notice deficiencies would ordinarily be the most appropriate remedy, the court of appeals reasoned, providing such additional notice after the earned income disregard change had been implemented would, most likely, "merely confuse recipients" (Pet. App. A35). Accordingly, the court of appeals instead directed the State to undertake a "thorough and accurate" review of the files of all members of the class and to correct any errors discovered (*id.* at A35-A37). Finally, because there was no indication that the state had acted in bad faith or would issue deficient notices in the future, and had in fact issued valid notices in comparable situations in the past, the court of appeals concluded that "the district court placed an improper and unnecessary burden upon [the state agency] when it specified the form of future notices and required the submission and promulgation of new notice regulations" (*id.* at A38).

ARGUMENT

Petitioners' contention that the court of appeals was required to direct "restor[ation]" of food stamp benefits to all members of a class of plaintiffs, at least 95% of whom have already received the maximum benefit authorized by law, is plainly without merit, and the petition should be denied. On the other hand, the State's cross-petition raises serious questions. In our view, the constitutional analysis of the court of appeals is seriously flawed. Moreover, the court of appeals erred in holding that the notices of reduction in the earned income disregard issued by the State in December 1981 violated either the Food Stamp Act or Department of Agriculture's regulations. However, because the court of appeals provided the federal and state defendants with appropriate relief from the draconian remedies awarded by the district court, review of the court's statutory and constitutional holdings is not independently necessary. Accordingly, the Court should grant the conditional cross-petition only if, contrary to our submission, the petition in No. 83-6381 addressing the remedial issues is granted.

In order to present our assessment of this case in coherent fashion we address the underlying merits—the issues raised by the cross-petition—before turning to the remedial issue.

1. a. We cannot agree with the court of appeals' conclusion that the notice given by the State of the reduction in the food stamp program earned income disregard was constitutionally insufficient. We submit, as a threshold matter, that the due process clause ordinarily does not require any individual administrative notice prior to effectuation of statutory changes in welfare benefits or other "entitlements,"

and that the analytical framework of *Mathews* v. *Eldridge* simply has no application in such instances, provided that no new factual findings need be made to implement the change. Provided it does not act in a wholly arbitrary manner, the due process clause "cannot be stretched to impose a constitutional limitation on the power of Congress to make substantive changes in the law of entitlement to public benefits." *Richardson* v. *Belcher*, 404 U.S. 78, 81 (1971).[8] Because Congress itself adjusted the earned income disregard that is applicable to computation of petitioner's benefits, no authority exists for continuing to pay benefits according to the schedule that formerly prevailed, and the courts are not free to subvert the will of Congress by imposing notice requirements of a kind generally applicable to *administrative* action as a precondition to effectuation of the statutory scheme. Cf. *Schweiker* v. *Hansen*, 450 U.S. 785, 788 (1981); *FCIC* v. *Merrill*, 332 U.S. 380, 385 (1947).

A14-A15), its analysis of the constitutional issue is without support in the decisions of this Court or any other court. The court reasoned (Pet. App. A12-A13), ~~court. The court reasoned (Pet. App. A12-A13),~~ however, that unless procedural due process requirements were extended to cases in which the individual's interest at issue extends beyond any statutory entitlement, the protection of the due process clause would be eliminated in the entire class of cases in which the government seeks to terminate or deny any claim to an entitlement benefit. The court reasoned

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[8] The court of appeals' suggestion (Pet. App. A14) that, so long as Congress does not abolish a statutory entitlement program, a participant has an interest, cognizable in a procedural due process analysis, in continuing to participate under "preestablished ground rules" accordingly is untenable.

¶As the court of appeals acknowledged (Pet. App.

that in such cases the government's position, of necessity, is that there is no statutory right to the claimed benefits. The court of appeals' reasoning fails, however, because it confuses two very different kinds of cases. In one class of cases, such as *Goldberg* v. *Kelly*, 397 U.S. 254 (1970), notice and hearing rights are to be measured against a flexible due process standard because the agency's action is predicated upon a factual evaluation of the claimant or recipient's eligibility or entitlement under settled legal standards. These are essentially the class of cases governed for purposes of the Food Stamp Program by the "adverse action" regulations. See page 3, *supra*. The court of appeals correctly recognized that the due process guaranty would be subverted if the government's claim that an individual was, as a matter of fact, ineligible for statutory benefits, was sufficient to deny the individual any procedural safeguards to test the correctness of the government decision. To be distinguished from such "adverse actions," however, are "mass changes," such as the one at issue here, that are effected by legislative action and can be implemented on the basis of factual information already in the recipient's file by means of simple arithmetic computations. Because implementation of the change does not rest upon any new factual determination by the government agency—with attendant possibilities for error—due process does not require that advance notice be given of effectuation of such statutory changes in benefit entitlements. See *Codd* v. *Velger*, 429 U.S. 624, 627 (1977).

b. Assuming that the *Mathews* v. *Eldridge* analysis is applicable to this case at all, the courts below misapplied it here. *Mathews* v. *Eldridge* identifies three "distinct factors" to be balanced to determine if procedural safeguards for protected interests are suffi-

cient: the private interest at stake; the risk of erroneous deprivation and the probable value of additional safeguards; and the government's interest in avoiding fiscal or administrative burdens associated with additional safeguards. 424 U.S. at 335. For present purposes, the critical inquiry under *Mathews* v. *Eldridge* is whether the beneficiaries' statutory entitlement to correctly computed food stamp allotments was unduly jeopardized by the procedures employed by the State and whether use of different procedures would meaningfully reduce the chance of error. The lower courts' conclusion (Pet. App. A77-A84, A88-A91) that the risk of an erroneous deprivation of benefits was great and that use of more elaborate notices would reduce the error rate is unfounded. In fact, it is most likely that no errors whatsoever were made by the State that are attributable to the adjustment of the earned income disregard from 20% to 18%. The change was effected by an appropriate revision in a computer program applied across the board (Pet. App. A21-A23). Accordingly the error rate should logically be either zero or 100%.

No claim is made here that the computer instruction was defective, and the court of appeals acknowledged that the argument we make here is "appealing in theory" (*id.* at A23).[9] The court of appeals nevertheless declined to label the district court's finding

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[9] In *Mathews* v. *Eldridge*, the Court recognized the distinction between terminating a person from a welfare program on the basis of information where issues of witness credibility are involved and discontinuing disability benefits pending appeal where the decision is based upon unbiased scientific medical reports. 424 U.S. 343-345. Here we are dealing with *arithmetic* "evidence" only; the possibility of error rate is negligible and the demands of due process are accordingly modest.

that there was a substantial risk of error "clearly erroneous," because of the possibility that the underlying data in the files of individual recipients was inaccurate—a possibility that was exacerbated by delays in entry of updated information into the data processing facility (Pet. App. A23-A24). But any error in benefit computations attributable to inaccuracy in the underlying data or delays in updating that data is analytically distinct from error in the implementation of the earned income disregard. Indeed, if such underlying errors existed, they would have resulted in erroneous computation of petitioner's benefits, whether or not the mass change had been implemented. There is simply no indication in the record that there was a significant possibility of error in implementing the mass change.[10] The courts below accordingly had no authority to impose more elaborate procedures and notices in the name of due process.[11]

2. We also disagree with the court of appeals' conclusion that the Food Stamp Act and Department of

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[10] The error rate found by the district court, which was in any event quite low, did not distinguish between underlying errors and errors in the implementation of the earned income disregard adjustment. See page 8 & note 7, *supra*.

[11] The court of appeals appears to have essentially abdicated its responsibility to review the district court's decision by relying upon the clearly erroneous rule once it was satisfied that "the district court applied the appropriate legal standard, the *Mathews* balancing test" (Pet. App. A20). The court of appeals' view (*id.* at A19) that the clearly erroneous standard of review applies to mixed questions of fact and law is inconsistent with *Bose Corp.* v. *Consumers Union*, No. 82-1246 (Apr. 30, 1984), slip op. 15. Moreover, the use of a highly deferential standard of review is especially troubling given the amorphous nature of the *Mathews* balancing test.

Agriculture regulations were violated by the States' failure to provide advance notice of the implementation of the earned income disregard adjustment. Nothing in the language of the statute or regulation cited by the court of appeals imposes any advance notice requirement as to mass changes. Indeed, because 7 U.S.C. 2020(e)(10) refers explicitly to "adverse actions" it is unlikely that Congress ever contemplated its application to mass changes. Congress understood that the Secretary's "regulations do not require individual notice of adverse action when mass changes in [the] program" are implemented. H.R. Rep. 95-464, 95th Cong., 1st Sess. 289 (1977).

The court of appeals also held that the mass change notice issued by the State was insufficiently informative to comply with the statutory and regulatory notice requirements applicable to mass changes. But this ruling rested entirely upon the court's view that the notices were constitutionally insufficient (Pet. App. A31-A32). No independent basis exists for this ruling.

3. For the foregoing reasons, we believe that the court of appeals erred in finding the Massachusetts notice unlawful. Accordingly, petitioners were not entitled to any remedy. But assuming that the court of appeals' rulings on the merits were correct and that there was a wrong that required remedial action above and beyond declaratory relief, the file review ordered by the court of appeals was, for the reasons stated by that court (see pages 10-11, *supra*), the most extensive remedy that could be justified. Petitioners' argument that they should have been permitted to retain the windfall bestowed upon them by the district court is not supported by any legal argument that merits further consideration.

a. Contrary to the petitioner's contention (Pet. 6-12), the decision of the court of appeals does not conflict with anything in *Pennhurst State School & Hospital* v. *Halderman*, No. 81-2101 (Jan. 23, 1984). The Court's passing statement (slip op. 18 n.17) that the good faith of an official defendant does not render him *immune* from injunctive relief as it does from damages, does not purport to discard settled teaching as to whether imposition of an injunction is appropriate in particular circumstances, or to deprive lower courts of discretion to deny an injunction. In any event, the good faith of the State defendants was cited by the court of appeals simply as one of several factors that made it clear that injunctive relief against the State was unwarranted because the state could be expected to honor its legal obligations without an injunction.

b. Equally unfounded is petitioner's claim (Pet. 13-18) that restoration of all food stamp benefits to the level prescribed prior to the enactment of OBRA is required by provisions of the Food Stamp Act. 7 U.S.C. 2023(b), upon which petitioners rely, directs federal courts to restore "any food stamp allotments found to have been wrongfully withheld." But no food stamp allotments were found to have been improperly withheld in this case. Even the district court found only a notice defect and the court of appeals acknowledged the absence of evidence in the record that "recipients had their benefits improperly reduced or terminated" (Pet. App. A33).[12]

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[12] Contrary to petitioner's suggestion (Pet. 15-18), awarding monetary benefits that Congress has denied cannot be justified as a remedy for defective notice. See *Schweiker* v. *Hansen*, 450 U.S. at 788-790.

CONCLUSION

The petition for a writ of certiorari in No. 83-6381 should be denied. If, however, the petition for a writ of certiorari is granted, the State's contingent cross-petition should also be granted.

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